

MOSES KOTANE LOCAL MUNICIPALITY



SOLID WASTE BY-LAW

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The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 [Act 32 of 2000] read with Section 162 of the Constitution of the Republic of South Africa Act 1996 [Act 108 of 1996] the By-Law Relating to the Disposal of Solid Waste which shall come into operation on the date of publication thereof.

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CHAPTER 1 DEFINITIONS

1. In these bylaws, unless the context indicates otherwise -

"Builder's Waste" means waste generated by demolition, excavation or building activities on any premises;

"Disposal site" means an authorized site used for the accumulation of waste with the purpose of disposing or treatment of such waste;

"Domestic refuse" means waste of a kind normally produced or generated on residential premises inclusive of garden refuse, sand, liquid matter, the carcass of any animal or industrial refuse or builders' refuse;

Commented [SP1]:

"Garden waste" means waste generated as a result of normal gardening activities on any premises, including grass cuttings, leaves, plants, hedge clippings and the like, excluding logs, the size of which shall be determined by the Municipality from time to time;

"Hazardous waste" means waste which can, even in low concentrations, have significant adverse effect on public health and/or the environment because of its inherent chemical and physical properties such as toxic, flammability, corrosive, cancer-causing or other properties.

"Industrial effluent" means any liquid, either with or without any particles of matter in suspension therein, which is discharged from, or wholly, or in part, produced by or in connection with or as a result of any manufacture, trade, mixing, mining or chemical process or industry carried on in any premises;

"Municipality" means The Moses Kotane Local Municipality;

"Contaminated animal remains, body parts and bedding" means contaminated animal remains, body parts and bedding that were intentionally exposed to pathogens in research, in the production of biologicals, or the in vivo testing of medical products.

"Contaminated sharp objects" means discarded sharps (e.g. hypodermic needles, syringes, pasteur pipettes, broken glass, scalpel blades) which have come into contact with infectious agents during use in patient care or in medical, research or industrial laboratories;

"Council" means the Council of the Municipality or any duly authorised Committee or official of the Council;

"Infectious Medical Waste" means specimen cultures from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biologicals and live or attenuated vaccines and culture dishes and devices used to transfer, inoculate and mix cultures;

"Human blood and blood products" means waste such as serum, plasma and other blood components;

"Infectious waste" means waste capable of producing an infectious disease;

"Isolation waste" means waste generated by hospitalised patients isolated to protect others from communicable diseases;

"Contaminated medical waste" means wastes from surgery and autopsy (e.g. soiled dressings, sponges, drapes, lavage tubes, drainage sets, underpads and gloves), contaminated laboratory wastes (e.g. specimen containers, slides and cover slips, disposal gloves, laboratory coats and aprons), dialysis unit waste (e.g. tubing filters, disposable sheets, towels, gloves, aprons and laboratory coats), and contaminated equipment (e.g. equipment used in patient care, medical and industrial laboratories, research and in the production and testing of certain pharmaceuticals);

"Pathological waste" means waste consisting of tissues, organs, body parts and body fluids that are removed during surgery and autopsy.

"Occupier", in relation to any premises, means any person who is in actual occupation of such premises and if no person is in actual occupation thereof, any person who whether as owner, lessee, licensee or otherwise has, for the time being, control of such premises and shall include a street trader who occupies a site for the purposes of such street trader's business;

"Owner" means –

- (a) the person in whom from time to time is vested the legal title to premises;
- (b) in the case where the person in whom the legal title is vested is insolvent or deceased, or is under any form of legal disability whatsoever, the person in whom the administration and control of such person's property is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in any case where the Municipality is unable to determine the identity of such person, a person who is entitled to the benefit of the use of the premises or a building or buildings thereon;
- (d) in a case where such premises have been leased for a period of thirty years or longer, the lessee thereof;
- (e) in relation to –
 - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986), the developer or the body corporate in respect of the common property; or

- (ii) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed, and includes the lawfully appointed agent of such a person;

"Person" includes a juristic person such as a registered company or a registered close corporation;

"Private waste service provider" waste collection contractor appointed by the Municipality to collect domestic, industrial and business waste generated within the Municipal jurisdiction.

"Public road" means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public has a right of access, and includes –

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and
- (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

"Waste bin" means a waste vessel, the size and quality of which shall be approved by the Municipality from time to time, for the temporary storage and removal of waste from household, Industrial or business premise;

"Waste container" means a receptacle, which is larger than a refuse bin, the size and quality of which shall be approved by the Municipality from time to time, and supplied by the Municipality or a private waste service provider for the temporary storage and removal of refuse;

"trade refuse" means refuse generated as a result of commercial or industrial activities from any premises including shops, offices, hotels, restaurants, guest houses and the like and shall include litter and refuse generated by a street trader as defined in the Municipality's Street Trading By-law;

"Verge" means that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway or the shoulder of the road, street or thoroughfare.

"Waste" means any matter, gaseous, liquid or solid or any combination thereof, including litter, originating from any residential, commercial or industrial area, which –

- (a) is discarded by any person;
- (b) is accumulated and stored by any person with the purpose of eventually discarding it with or without prior treatment connected with the discarding thereof; or
- (c) is stored by any person with the purpose of recycling, re-using or extracting a usable product from such matter

1.2 OBJECTIVES OF THE BY-LAW

The objectives of these by-laws are to –

- (a) Give effect to the right contained in section 24 of the Constitution by regulating waste management within the area of the municipality's jurisdiction;
- (b) Provide, in conjunction with any other applicable law, an effective legal and administrative framework, within which the Municipality can manage and regulate waste management activities;
- (c) ensure that waste is avoided, or where it cannot be altogether avoided, minimized, re-used, recycled, recovered, and disposed of in an environmental sound manner; and
- (d) Promote and ensure an effective delivery of waste services.

1.3 SCOPE OF APPLICATION

- (1) These by-laws must be read with any applicable provisions of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008).
- (2) In the event of any conflict with any other by-law which directly or indirectly, within the jurisdiction of the municipality, regulates waste management, the provisions of this by-law shall prevail to the extent of the inconsistency.
- (3) The by-laws do not override any other national and provincial waste related legislation.

1.4 GENERAL DUTY OF CARE

- (1) Every person has a duty to manage any waste generated by his or her activities or the activities of those persons working under his or her direction in such a manner that the waste does not cause harm to human health or damage to the environment. In particular, the person must ensure that:
 - (a) Waste generation is avoided and where such waste cannot be avoided, minimize the toxicity and amounts of waste;
 - (b) Waste is reduced, reused, recycled or recovered;
 - (c) Where waste must be disposed of, the waste is treated and disposed in an environmentally sound manner;
 - (d) The waste is managed in such a manner that it does not endanger health or the environment or cause a nuisance through noise, odour or visual impacts.
- (2) Any person subject to the duty imposed in subsection (1) may be required by the Municipality or an authorized official to take measures to ensure compliance with the duty.

- (3) The measures referred to in subsection (2), that a person may be required to undertake include –
- (a) Investigation, assessment and evaluation of the impact that their activities, the process or a situation have on the environment;
 - (b) Informing and educating employees about the environmental risks of their work and the manner in which their tasks must be performed in order to avoid causing damage to the environment;
 - (c) Ceasing, modifying or controlling any act, process, situation or activity which causes damage to the environment;
 - (d) Containing or preventing the movement of pollutants or other causes of damage to the environment;
 - (e) Eliminating or mitigating any source of damage to the environment; or
 - (f) Rehabilitating the effects of the damage to the environment.

CHAPTER 2

2. DUMPING AND LITTERING

- 2.1 (1) No unauthorized person shall dump, deposit, discharge, spill or release waste, or cause or permit such waste to be dumped, discharged, spilled or released, whether or not the waste is in a container or receptacle, in or at any place, whether publicly or privately owned, including but not limited to:
- vacant land,
 - On the ground
 - rivers
 - Waterways
 - catchments
 - Sewers and stormwater drains
 - Except in a container or at a place which has been specially indicated, provided or set apart for such purpose by the **Municipality**.
- (2) No person shall, while driving a vehicle, or while being conveyed in a vehicle, throw or deposit waste on any public road or on any private premises within the Municipality and No driver of a vehicle shall allow or permit any passenger in such vehicle to throw or deposit such waste in a like manner.
- (3) No person unauthorized shall throw, discard or deposit any circular, pamphlet or other advertisement in or on any public road or private property or place within the Municipality.
- (4) No person shall drive or move any vehicle in the Municipality unless such vehicle is constructed or loaded so as to prevent any load, contents or waste from being blown or deposited in or on any public road or on private property.

CHAPTER 3

3. WASTE COLLECTION AND REMOVAL

- 3 (1) The Municipality shall, where possible, provide a refuse removal service for all occupied business, industry and domestic premises within the municipal's jurisdiction, and the occupier of any premises shall be liable for all charges levied for such service, irrespective of whether or not such service is utilized, and regardless of whether or not the service is provided on a day other than the normal day of collection. Any charges levied for such service shall be prescribed in the Municipality's structure of tariff or charges.
- (2) The charges payable to the Municipality for the provision of waste removal services shall be determined by Resolution adopted by the Municipality and included in its tariff structure on an annual basis.
- (3) The occupier(s) and/or owner(s) of premises on which business, industrial or domestic refuse is generated shall subject to the provision in subsection 3(1), use the Municipality's service except in cases where special written exemption is granted by Council to occupier(s) and/or owner(s) of premises to make use of private companies for refuse removal services.
- (4) The occupier of premises shall within seven days of the occupation of such premises notify the Municipality in writing that the premises have been occupied and whether the service the occupier requires relates to the removal of domestic, or trade refuse, or a combination of these.
- (5) The occupier of any premises shall ensure that all refuse generated on such premises is placed and kept in approved waste containers, refuse bins, bags or other receptacles which shall be covered or sealed and retained on the premises until they are removed. In cases where the occupier is not the owner, the Municipality may hold the owner, instead of the occupier, liable for compliance with the provisions of this by-law.
- (6) Any object that may be standing or lying unattended or that seems to be discarded in such places where the Municipality renders its waste removal services, in light of such factors as the place where it is found, the period it has been lying there and the nature and condition thereof, will be regarded as having been abandoned. The Municipality shall remove and dispose of such abandoned object in a manner it may deem fit.
- (7) Where in the opinion of the Municipality the collection or removal of refuse from any premises is likely to result in damage to the premises or to the Municipality's property, or injury to the refuse collectors or any other person, it may, as a condition of rendering a refuse collection service in respect of the premises, require the occupier to indemnify it in writing in respect of any such damage or injury or any claims arising out of either.
- (8) On the day which has been determined by the Municipality for a particular area, the occupier of any premises within such area shall, unless directed otherwise by the Municipality, place any refuse bins, bags or other receptacles approved by the Municipality on the verge immediately outside the boundary of such premises.
- (9) No hot ash, unwrapped glass fragments or other refuse which may cause damage to the Municipality's containers or bins, or injury to the persons or vehicles employed in removing refuse from any premises, shall be placed in any containers, bins or bags unless appropriate steps have been taken to avoid any damage or injury.

- (10) No material, including any liquid, which by reason of its mass or other characteristics is likely to render any refuse container, refuse bin, bag or other receptacle unreasonably difficult for the Municipality's employees to handle, shall be placed therein.
- (11) Every refuse container or refuse bin on or outside any premises shall be covered by means of a lid or other covering so as to prevent any nuisance or health hazard, and any such container or bin shall be kept clean and hygienic condition.
- (12) The Municipality does not make provision for hazardous waste collection including bulk expired, spoilt hazardous products, asbestos waste, and others, therefore, no person shall deliberately allow the collection of such waste by the Municipality.

3.2 PERMISSIBLE CONTAINERS AND RECEPTACLES

- (1) The Municipality shall determine the capacity and type of waste bins, bags or receptacles which shall be utilized by occupiers for refuse removal purposes, or the number of such bins, bags or receptacles and the days on which the service shall operate.
- (2) The Municipality, or a private waste service provider appointed by the Municipality, may deliver containers to premises if, having regard to the quantity of refuse generated on the premises concerned, the suitability of such waste for storage in containers, and the accessibility and adequacy of the space provided by the occupier of any premises for refuse collection vehicles, such refuse would, in the opinion of the Municipality, be more appropriately stored in containers rather than bins.
- (3) Any containers delivered by the Municipality, or a waste service provider, in terms of this section shall remain in the ownership of the Municipality or the private waste service provider, as the case may be.
- (4) An occupier of premises shall be liable for the replacement or repair costs of lost, stolen or damaged containers at the applicable replacement cost of such containers.
- (5) No person may throw or discard Waste on the ground alongside the provided Containers referred to in subsection 6(2).
- (6) (1) An occupier of any premises shall provide sufficient space and any other facilities deemed necessary on such premises for the storage of containers delivered by the Municipality, or a private waste service provider, in terms of section 762).
- (2) Containers in subsection (6)1 shall –
 - (a) Be placed in such a position on the premises as will allow their storage without their being visible from a public road;
 - (b) Where trade refuse is generated on the premises, be placed in such a position as will allow the collection and removal of such refuse by the Municipality's employees without hindrance, or by a private waste services provider, as the case may be.

(c) Be so located as to permit convenient access to and egress from such premises by the Municipality's refuse collection vehicles or by the vehicles of a private waste services provider.

CHAPTER 4 HAZARDOUS WASTE MANAGEMENT (ALSO SEE WASTE CLASSIFICATION AND MANAGEMENT REGULATIONS 2013)

- 4.1** (1) Whenever any hazardous waste is unlawfully stored, treated, generated or transported, the Municipality may, by written Notice served on the holder or transporter of such waste-
- (a) Prohibit the treatment, storage, transport or generator of such hazardous waste, or
 - (b) Order the removal, disposal or treatment of such hazardous waste in a specified manner and at certain times within a period stipulated in such Notice.

(2) If such owner or occupier fails to comply with the terms of a notice contemplated by this bylaw, he shall be guilty of an offence and the Municipality may remove, or cause to be removed, dispose of or treat such hazardous waste in any suitable manner and recover the expenses incurred in doing so from such owner or occupier of premise or generator/holder of such waste.

4.2

- (1) No person shall
 - (a) Remove hazardous waste from any premises, or
 - (b) Transport hazardous waste on or over any public road, unless the Waste Transporter is in possession of a waste manifest document outlining the name of the Transporter, Address and Telephone of the Transporter and Declaration Acknowledging Receipt of the waste.
 - (c) Generate hazardous waste unless the generator of such waste is in possession of a waste manifest document outlining the unique identification number, generator's contact details, physical address of the site where the waste was generated, contact number in the case of incident, origin or source of waste(process or activity), date of collection, quantity of waste generated, intended receiver, declaration(content of consignment is fully and accurately described, classified, packed and marked, and in all respect in proper condition for transportation in accordance with the applicable laws and regulations, as prescribed for in the norms and standards for waste classification.
 - (d) The holder of waste must provide accurate information pertaining to the contents of the consignments.
- (2) Hazardous waste in subsection 4.2(1) must be securely and properly contained in a receptacle or vehicle designed to prevent spillage or contamination.

4.3 No person shall discharge or dispose hazardous waste at the Municipal disposal site.

CHAPTER 5 GARDEN WASTE (GREEN WASTE)

5. (1) The Municipality may, from time to time, set aside certain sites for the disposal of garden refuse and certain recyclable materials.
- (2) Generators of Domestic/Business and Industrial garden waste must deposit such waste in these designated sites referred to in subsection (1).
- (3) The sites referred to in subsection (1) shall be set aside by means of notice boards erected at such sites where possible.
- (4) No person, entering such a site shall deposit any refuse other than that contemplated in subsection (1) in the containers provided at such sites.

CHAPTER 6

BUILDERS' WASTE, RUBBLE

- 6.(1) Excessive Rubble and other Debris or waste material that is 1 tonne or more accumulated as a result of building demolishing must not remain on public space or road for more than three weeks.
- (2) The Municipality shall where possible, remove and safely dispose of waste referred to in subsection (1) upon request at a fee prescribed for in the Council Approved Tariffs.
- (3) The Municipality may by written notice, order the generator of such waste in subsection (1) to remove and dispose waste in the approved manner provided for on the Notice.
- (4) Failure to adhere to subsection (3), the Municipality may clear the polluted site and any costs incurred by the Municipality in remedying or in abating the debris/rubble illegal dump in contravention of the provisions of these bylaws, shall be borne by and be recoverable from the generator of such waste.
- (5) Any person who removes any material in terms of subsection (1) and (3) above, shall produce to the Municipality a copy of the weighbridge ticket/ receipt of payment, if the material has been moved to the Municipality's disposal site, or other documentary proof in the event that the material has been removed to other approved disposal sites.
- (6) Any person who fails to comply with a provision of subsection (3) or a notice served on such person in terms thereof, shall be guilty of an offence.

CHAPTER 7

WASTE MANAGEMENT- DISPOSAL, RE-USE, RECYCLE, REDUCE

- 7.1 (1) Every person who, for the purpose of disposing of refuse, enters a landfill site controlled by the Municipality, shall –
 - (a) Enter the landfill site at an authorized access point indicated as such;
 - (b) Present the refuse for weighing in the manner required by the Municipality's official having authority at such site;
 - (c) Give such official all the particulars required in regard to the composition of the refuse;
 - (d) Provide such official with full information as to the person who is liable to pay the tariff charge for the refuse deposited to enable an account to be rendered to such person;

- (e) Ensure that any container brought on to the site shall have its correct tare legibly displayed on both sides;
 - (f) Follow all instructions given to such person in regard to access to the actual disposal point, the place where and the manner in which the refuse should be deposited.
- (2) Any person who contravenes any of the provisions of subsection (1) may be refused entry to, or be removed from, the Landfill site.
 - (3) No person, unless authorized to do so by the Municipality, shall enter a disposal site controlled by the Municipality for any purpose other than the disposal of refuse in terms of these by-laws, and then only at such times and between such hours as the Municipality may from time to time determine.
 - (4) The Municipality may at any time require a vehicle and/or its container to be weighed at a weighbridge on the site.
 - (5) At any disposal site the official having authority at such site may refuse to accept waste which may, in such official's opinion, have a detrimental impact on the environment, or may accept such wastes subject to such conditions as the official may deem appropriate.
 - (6) All waste on disposal sites controlled by the Municipality shall be the property of the Municipality and no person shall remove or in any manner interfere with such waste unless instructed or authorized to do so by the Municipality.
- 7.2 (1) Any person entering a landfill site for the purposes of disposing of refuse shall, in addition to complying with the above provisions, comply with all conditions stipulated in any permit issued by the relevant or competent issuing Department.
- (2) The Municipality may create awareness amongst the households about the following:
 - a) Separation at source- the removal recyclables and re-usable waste from the general household waste
 - b) The potential of composting some of the household waste and the benefit of such to the household
 - c) The unacceptability of illegal dumping and littering
 - d) Measures to be taken against individuals that litter and dump waste illegally, as prescribed for in this By-Law.
 - (3) Community Involvement in recycling must be encouraged by the Municipality to awareness raising and regular training workshops for interested individuals or cooperative.

7.3 Registration and provision of waste information

- (1) Any person who conducts an activity, which has been identified in terms of provincial and/or national waste information system must, upon request, present to the Municipality proof that such an activity is registered and reporting the required information.
- (2) The Municipality may, at its own discretion and as reasonably possible, require any facility, person of activity to register and report to the Municipality any other information for the purpose of facilitating effective waste management within its jurisdiction.

CHAPTER 8 NOTICES AND PENALTIES

- 8.1 (1) A person is guilty of an offence if that person -
- (a) Fails to comply with section 2.1(1), 2.1(2), 2.1(3), 3(12), 4.1(2), 4(2), 4(3) of these By-laws.
 - (b) Provides incorrect or misleading information in any record or document required in terms these By-Laws.
- (2) A person convicted of an offence in section 8.1(1) is liable to a fine not exceeding 200 000 or subjected Community Service or Imprisonment or all simultaneously, depending on the determination of impact of caused on the Environment, Health and Well-being of Community.
- (3) A person convicted of an offence referred to in section 8.1 (1) (b) is liable to a fine not exceeding R10 000, 00 or subjected Community Service work or 6 months imprisonment or simultaneously, depending on the severity of the offence and its impact on the environment, health and well-being of the community.
- 8.2(1) The Municipality may serve a Notice on the occupier of any premises/holder of such waste, requiring such occupier/holder to clear any waste on such premises in a manner and within a time specified in such a Notice.
- (2) Failure to comply with subsection 8.2 (1) is deemed as an offence.
- (3) The Municipality may undertake the duty to remedy the polluted site/illegal dump and any costs incurred by the Municipality in remedying or in abating the polluted site shall be borne by and be recoverable from the holder/generator of such waste/premise.
- (4) A person convicted of an offence referred to in section 9(2) shall liable to a fine in line with the remediation costs referred to in Section 8.1(2)

CHAPTER 9 REPEAL OF BY-LAWS

Any by-law relating to the disposal of solid waste previously adopted by the municipality is repealed from the date of promulgation of this by-law.

CHAPTER 10 SHORT TITLE AND COMMENCEMENT

- 10.1 This By-Law is called the Solid Waste By-Law and shall commence on the date of its publication in the North West Provincial Gazette.